

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Haynes Analyst: Jane Tolman Bill Number: SB 1275  
Related Bills: See Legislative History Telephone: 845-6111 Introduced Date: 01/15/2002  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Gun Safes Or Other Firearm Safety Equipment Credit

### SUMMARY

This bill would create a tax credit for the purchase of a gun safe or other firearm safety equipment.

### PURPOSE OF THE BILL

It appears the intent of the author's office, is to promote gun safety.

### EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. It would be operative for taxable years beginning on or after January 1, 2002.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

**Current federal and state laws** allow businesses to deduct ordinary and necessary expenses. Current federal and state laws allow individuals to deduct certain personal or business expenses, such as home mortgage interest, charitable contributions, medical expenses, taxes, and work-related expenses. A business could deduct the cost of a gun safe or firearm safety equipment, if considered an ordinary and necessary expense. However, the same equipment for an individual would be generally considered a non-deductible personal expense.

**Current federal and state laws** provide for various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Alan Hunter for GHG

3/13/02

## THIS BILL

- This bill would create a Personal Income Tax Law (PITL) credit equal to 100% of the purchase price for a gun safe or other firearm safety equipment that complies with standards set forth in the Penal Code. The standards address the safe's function, design, and locking mechanism.

This bill would allow the portion of the credit that exceeds the taxpayer's tax liability to be carried over indefinitely.

## IMPLEMENTATION CONSIDERATIONS

Implementation of this bill would not significantly impact the department.

## **LEGISLATIVE HISTORY**

AB 94 (Cardoza, 1997/1998) would have created a tax credit for individuals equal to \$150 each for up to two new gun safes. This bill failed to pass out of the first house.

AB 9 (Cardoza, 1999/2000) would have allowed a \$150 tax credit for the purchase of a new gun safe. This bill failed to pass out of the first house.

## **OTHER STATES' INFORMATION**

Review of *Illinois*, *Massachusetts*, *Michigan*, *Minnesota*, and *New York* laws found no comparable tax credits. These states were reviewed because of the similarities between California income tax laws and their tax laws.

## **FISCAL IMPACT**

Once the implementation concerns are resolved, this bill is not expected to impact the department's costs significantly.

## **ECONOMIC IMPACT**

### Revenue Estimate

Based on data and assumptions discussed below, this bill would result in the following revenue losses beginning in 2002-03.

Estimated Revenue Impact of SB 1275 As Introduced 1/15/02 Enactment assumed after June 30, 2002 [\$ In Millions]		
2002-03	2003-04	2004-05
-\$29	-\$32	-\$34

### Revenue Discussion

The revenue impact of this bill would be determined by the number of new or used gun safes and/or the number, type, and quality of other firearm safety equipment purchased by taxpayers, and the amount of credits that can be applied to reduce tax liabilities.

"Gun safe" is assumed to include gun safes and lighter gauge metal gun cabinets and boxes. Retail dealers have indicated that a gun safe can cost from \$600 up to a few thousand dollars, gun cabinets cost around \$350, and gun boxes start at about \$100.

National sales data were obtained from industry contacts. Sales data were grown by industry-provided growth rates plus an incentive effect of the proposed credit to offset the cost of a safe fully. California's share of national sales was assumed to be 12%. The projected number of gun safes sold each year (15,400 for 2002) was multiplied by an average cost of \$750; the projected number of gun cabinets/boxes (48,250 for 2002), by an average cost of \$150.

Other safety equipment is assumed to predominantly include locking devices, which include trigger, cable, grip, magazine, and plug locks. Costs for locking devices range from a low of \$10-\$15 to a high of \$70-\$90.

Potential demand for locking devices is separated into two groups: (1) purchases of new or used firearm(s) in the current year, and (2) the inventory of firearms purchased in all previous years. From July 1, 2000, through June 30, 2001, dealer sales totaled about 366,000 firearms. Assuming two-thirds of projected annual sales of 350,000 either come with or the buyer pays extra for a qualifying locking device, and an average cost per device of \$20, revenue losses attributed to this group would be approximately \$4.5 million annually. If an equal number of devices were purchased each year for the second group consisting of firearms acquired in previous years, additional losses of \$4.5 million annually would occur. These assumptions allow for the incentive effect of the proposed credit to offset the cost of locking devices fully.

**Note:** This revenue assumes that the bill will be amended to limit the credit to gun safes and equipment purchased and used in California. The revenue estimate would be significantly higher if this restriction is not added.

### **ARGUMENTS/POLICY CONCERNS**

This bill would allow a credit for the purchase of a gun safe regardless of whether the safe was used to store firearms, or other valuable items such as jewelry.

Most credits relating to the purchase of property require that:

- The property be purchased and used within California;
- The property be "new," not used property; and
- The taxpayer recapture the credit if the property is subsequently disposed of or removed from the state.

In order to promote gun safety in California, the author may wish to add these criteria.

This bill would allow a credit equal to 100% of the cost of the safe or equipment. Credits generally are provided as a percentage of amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented. Moreover, if the author's intent is to provide a 100% subsidy for the purchase of these safes and other firearm safety equipment it may make more sense for this credit to simply be replaced with a program whereby the state would purchase and distribute these safes and firearm safety equipment directly to individuals.

This bill does not specify a repeal date or limit the number of years for the carryover period. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness periodically. However, even if a repeal date were added, the department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover limitation since experience shows credits are typically used within eight years of being earned.

This bill would provide a tax benefit for sole proprietorships, partnerships, certain limited liability companies, and real estate mortgage investment conduits under the PITL that would not be provided to corporations. Thus, this bill would provide different treatment based solely on business entity type.

Conflicting tax policies come into play whenever a credit is provided for an item that is already deductible as a business expense. Providing both a credit and allowing the full amount to be deducted would have the effect of providing a double benefit for that item. On the other hand, disallowing the expense to eliminate the double benefit creates a difference between state and federal taxable income, which is contrary to the state's general federal conformity policy. While not all taxpayers who purchase a safe or firearm safety equipment qualifying for the credit under this bill will be able to treat the purchase as a deductible expense (since they might purchase it for personal use in their house), some taxpayers will be able to claim both the 100% credit under this bill and also deduct the cost of the item.

## **LEGISLATIVE STAFF CONTACT**

Jane Tolman  
Franchise Tax Board  
845-6111

Brian Putler  
Franchise Tax Board  
845-6333